

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

CHERYL ROBIN ROSS, et al.,

Plaintiffs

v.

OAKMONT SENIOR LIVING OF LAKES  
OPCO, LLC, et al.,

Defendants

Case No.: 2:22-cv-00146-APG-EJY

**Order Remanding Case**

The defendants removed this case from state court based on federal question jurisdiction. ECF No. 1. In the notice of removal, the defendants contended that because Covid-19 led to the Public Readiness and Emergency Preparedness Act (PREP Act), this case raises a federal question. *Id.* Because it was not apparent from the removal papers why subject matter jurisdiction would exist in this court, I ordered the defendants to show cause why this action should not be remanded. ECF No. 5. In their response to the order to show cause, the defendants argue that the PREP Act completely preempts state law. ECF No. 8. I subsequently ordered the plaintiffs to respond. ECF No. 9. The plaintiffs responded that the PREP Act does not completely preempt state law, so remand is required. ECF No. 12.

The Ninth Circuit has recently held that the PREP Act does not provide grounds for removal based on a federal question under a similar factual scenario as this case. *Saldana v. Glenhaven Healthcare LLC*, No. 20-56194, --- F.4th ----, 2022 WL 518989 (9th Cir. Feb. 22, 2022). In doing so, the Ninth Circuit rejected the proposition that the PREP Act is a complete preemption statute. *Id.* at \*5-6. It also concluded that the PREP Act does not constitute an embedded federal question and a federal defense does not provide a basis for removal. *Id.* at \*6.

1 Because the PREP Act does not support removal, and because the defendants have offered no  
2 other grounds for removal, I remand this case.

3 I THEREFORE ORDER that this case is remanded to the state court from which it was  
4 removed for all further proceedings. The clerk of the court is instructed to close this case.

5 DATED this 1st day of March, 2022.

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ANDREW P. GORDON  
UNITED STATES DISTRICT JUDGE  
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